



March 17, 2020

The Honorable Mitch McConnell
Majority Leader
S-230, U.S. Capitol
Washington, DC 20510

The Honorable Chuck Schumer
Minority Leader
S-221, U.S. Capitol
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker of the House
H-232, U.S. Capitol
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
H-204, U.S. Capitol
Washington, DC 20515

Dear Leader McConnell, Leader Schumer, Speaker Pelosi and Leader McCarthy,

The National Association of Counties (NACo) and the 3,069 counties we represent thank you for your leadership and swift action over the last several weeks to confront both the public health crisis caused by the Coronavirus and COVID-19, as well as the economic challenges associated with this unprecedented situation. Counties are on the frontlines of our nation's local public health emergency response and overall public safety efforts. Now, more than ever, we need strong federal, state and local intergovernmental collaboration to address this crisis.

Counties nationwide are committed to working with both Congress and the Administration to advance legislation that assists with the mitigation of this public health crisis and its potential far-reaching economic, health, and safety impacts on our nation. We respectfully urge that a portion of the federal resources directed at the pandemic flow directly to counties, based on our statutory responsibilities. We also appreciate the bipartisan efforts of Congress and the Administration to provide an appropriate level of flexibility to address rapidly changing conditions.

The *Families First Coronavirus Response Act*, H.R. 6201, and H.R. 6074, the *Coronavirus Preparedness and Response Supplemental Appropriations Act*, provide federal investments and flexibility at the local level to help protect our residents from the spread of coronavirus and lessen the impact of this pandemic on our local communities.

As the ground troops in the fight against the COVID-19 pandemic, counties are rapidly disseminating factual and timely updates to the public, while pursuing containment strategies. Counties invest \$83 billion annually in community health systems and support 903 hospitals, 824 long-term care facilities and over 1,900 public health departments. These local agencies are essential components of the Centers for Disease Control and Prevention's COVID-19 containment strategy.

In addition to public health and human services infrastructure, counties are crucial to the operation of local economies, investing \$134 billion in infrastructure and the operation and maintenance of public works and institutions, such as schools, hospitals and jails. Counties are also important partners in ensuring the economic health of our communities by helping to create and retain jobs and improve the overall quality of life in America.

As you continue to consider legislative proposals to address the pandemic, we strongly urge you to include the following items critical to America's counties:

- **Deployment of Testing Equipment:** Counties need sustained federal investments and flexibility at the local level to help us protect our residents from the spread of this virus and lessen the impact of this pandemic on our local communities. Local governments cannot adequately respond to the threat of the virus without the essential tools required to measure the spread of the disease in our communities. The shortage of test availability, and the lack of testing has contributed to a false sense of security in states and counties where there are currently no reported cases. We urge Congress to increase the availability of testing materials, and grant flexibility to state and local governments so that we can quickly identify and treat individuals impacted by COVID-19. Furthermore, counties request that any future legislative packages include adequate funding to address lab capacity issues and provide adequate technical support and equipment to meet growing demands for testing.
- **Access and Distribution of Personal Protective Equipment for Essential County Service Providers:** As COVID-19 continues to spread throughout our country, the protection of our local service providers is crucial. Without adequate equipment needed to prevent personal contamination, local health care professionals cannot administer tests and treat infected individuals. In highly impacted areas, counties have seen a spike of local service provider infections, and in some cases, providers have refused to provide services due to the lack of protective equipment. We request additional personal protective equipment for both county and private facilities be made available to preserve the health and safety of these essential employees when their services are needed most.
- **Clarification on FEMA Resources and Additional Funding:** We believe that it is critically important that FEMA involve local governments in the development and implementation of policy and procedures, and to enact such procedures that will clarify and simplify the local role in national emergency management. As eligible counties access over \$40 billion from the Disaster Relief Fund, we urge Congress to clarify how counties document eligible costs and activities. Congress must clarify that counties' public health emergency response activity are eligible for Public Assistance Program funding and reimbursement.
- **Ensure that Robust Behavioral and Mental Health Services are Maintained:** This is essential to reduce the severe disruptions associated with the coronavirus pandemic. In an epidemic, many new cases of mental illness are likely to develop, which will exhaust an already fragile local behavioral health safety net. We urge Congress and the administration to work together to assist with planning for mental health care with specific attention given to essential personnel. Additionally, we request that Congress reprogram federal funds for urgent mental health services and create mechanisms to waive any legal and regulatory barriers to obtaining care for residents.
- **Strengthen the Local Health Care Safety Net:** We urge you to repeal or delay the statutory Medicaid disproportionate share hospital (DSH) payment reductions scheduled to take effect on May 23, 2020. As the local health care system works to provide care for infected residents regardless of socioeconomic status, Medicaid DSH payments are a critical means for local hospitals to serve our nation's most vulnerable citizens, by enabling them to make up for those losses and continue to provide high-quality care to all patients.

- **Medicaid Fiscal Accountability Regulation (MFAR) Moratorium:** While we applaud the proposed increase to Medicaid Federal Medical Assistance Percentage (FMAP) included in H.R. 6201, which will provide counties with additional federal funding to test for and treat the virus, we urge Congress to suspend changes to Medicaid financing. As we stated in our March 13 letter, counties support a moratorium on the CMS Medicaid Fiscal Accountability Regulation (MFAR) because it would reduce the ability of localities to finance the non-federal share of Medicaid, resulting in a reduction in federal Medicaid funding for the public health and hospital system. If finalized, this rule would destabilize our county public health systems at the same time we are responding to a global pandemic.
- **Emergency Funding for Publicly Funded Child Care, Head Start and Early Head Start:** Maintaining and expanding access to child care and early learning programs is critical as demand for child care increases in the wake of widespread school closures. Further, child care for emergency and essential personnel is a critical public health concern as these workers lack options for paid leave and telework. Counties urge Congress to provide flexible emergency funding for the Child Care and Development Block Grant (CCDBG), Head Start and Early Head Start to ensure minimal disruptions in these critical services for low-income families with children. Flexible application of these emergency funds should include: direct assistance to programs based on enrollment, rather than attendance; the purchase of additional supplies or services necessary for keeping centers and homes safe and sanitary; paying staff in the event of closures; hiring additional staff and otherwise supporting providers as they deploy various emergency flexibilities to maintain operations. Congress should direct HHS to allocate this emergency funding based on need, rather than statutory formulas, to ensure maximum effectiveness at responding to the crisis.
- **Provide Greater Certainty for TANF:** We urge Congress to extend the authorization of the Temporary Assistance for Needy Families (TANF) block grant program past its current deadline of May 22, 2020. Counties are responsible for administering TANF in 10 states, using the program's flexible funding to support basic cash assistance for low-income families, child welfare system expenses, child care, work supports and more. Extending the program will provide greater certainty and ensure access to this critical component of the safety-net during the COVID-19 outbreak.
- **Restore Advance Refunding Bonds:** Municipal bonds allow state and local governments to immediately finance critical projects that support our nation's infrastructure needs while protecting the economy during a crisis. Restoring governments' ability to advance refund tax-exempt municipal bonds would free up billions of dollars state and local governments could spend on other critical infrastructure projects, such as hospitals and other public health facilities, during a pandemic. To ensure that local governments can adequately respond to immediate infrastructure needs as a result of COVID-19, America's counties urge you to restore advance refunding, thereby providing debt service savings for taxpayers which can be put to immediate community needs and priorities.
- **Increase Access to Capital for Small Borrowers:** We urge you to include temporary extension and permanent restoration of proven financing tools utilized by state and local governments, schools, hospitals, airports and special districts and other public sector entities to provide efficient and low cost financing of critical investments in infrastructure that will move this country forward immediately. Specifically, counties urge Congress to increase the bank

qualified borrowing limit from \$10 million to \$30 million, and have it apply at the borrower level, which would ensure that small local governments could provide access to capital for immediate infrastructure.

- **Clarify Tax Credits for Paid Sick and Paid Family and Medical Leave for County Employers:** As the COVID-19 pandemic grows, public health officials recommend that individuals who are sick should stay home and that employer should consider implementing a telecommuting program when possible. However, since the United States does not have a national standard on paid family or sick leave, these policies are determined by employers, and state and local laws. While we appreciate that H.R. 6201 expands paid leave benefits for workers affected by COVID-19, the legislation imposes substantial new sick leave and family medical leave requirements on government employers of all sizes. As Congress continues to engage in ongoing negotiations, counties request that Section 70001(d)(4) and Section 7003(d)(4) be removed from H.R. 6201 and language is inserted to clarify that state and local government employers fully qualify for both credits.
- **Mandatory Funding for Payments In-Lieu of Taxes (PILT):** The PILT program helps to offset costs incurred by counties in 49 states for services provided to federal employees, the public and to the users of federal public lands. Approximately 61 percent of counties nationwide have nontaxable federal public lands within their jurisdictions and use PILT funding to pay for public health crisis management and emergency responses, among other key services. County governments need stable revenue streams in these times of economic stress, so counties request full, long-term and mandatory funding of the PILT program, as laid out in legislation such as H.R. 3043, the Permanently Authorizing PILT Act, or S. 2480, the PILT Reauthorization Act. Further, counties under 5,000 in population are not on a level playing field due to the monetary and population caps in the PILT formula. We urge Congress to adopt legislation to help these smaller population counties to receive appropriate PILT payments without impacting counties with larger populations through the minor formula change laid out in the Small County PILT Parity Act, S. 2108 and H.R. 3716.
- **Expand Use of Secure Rural Schools (SRS):** Counties appreciate the two-year reauthorization of SRS included in the FY 2020 appropriations package. However, counties request that important additional reforms be included to provide greater stability for national forest counties facing potential revenue shortfalls, such as stopping the annual 5 percent reduction in SRS payments, and allowing counties to elect whether to receive SRS payments or timber harvest receipt sharing payments. Additionally, with many schools experimenting with online coursework in response to coronavirus quarantines, it is imperative that Congress also expand the allowable uses of SRS funds to include broadband connectivity for educational purposes. These policies were agreed to by the Senate Energy and Natural Resources Committee during their markup of S. 430 in December, 2019.
- **Preserve Local Emergency Communications Networks:** Currently, eleven major metropolitan municipalities rely on the T-Band spectrum for their emergency communications networks. These public safety networks connect emergency services being delivered to over 90 million Americans. However, the *Middle Class Tax Relief and Job Creation Act of 2012* has forced the Federal Communications Commission to reallocate and auction this portion of the spectrum by 2021. Under the current circumstances, it is imperative that Congress act to prevent local

governments from having to relocate their emergency communications networks from the T-Band spectrum.

- **Increase Broadband Access:** As we transition to a large-scale remote work and school platform, the demands on our nation's broadband infrastructure are being tested. For many, particularly those living beyond the last mile, connectivity is simply not an option. To bridge this divide, Congress should dedicate resources to help schools provide remote broadband access points, such as encouraging school buses equipped with public Wi-Fi capabilities to be parked in areas to expand the connectivity footprint for residents in communities unable to travel the distances to other public hotspots. Additionally, Congress should allocate resources to empower local governments to create public-private partnerships to provide expanded access to temporary broadband connectivity in unserved and underserved areas.
- **Additional Funding for the 2020 Census:** The decennial census, which aims to count every United States resident each decade, is critical to county governments. With the rapid spread of COVID-19, counties are concerned that this will weaken outreach efforts for a complete count of our nation's residents. While counties applaud the U.S. Census Bureau's response to the outbreak, we urge lawmakers to allocate additional funding and reevaluate the current timelines needed to ensure a complete count for the 2020 Census.
- **Funding and Flexibility for Elections:** The unprecedented nature of the rapid spread of COVID-19 has fundamentally altered the current phase of the 2020 election cycle. With concerns over transmission of the virus, counties are closely working with federal, state and local election officials to ensure the highest level of safety, security and integrity in our elections. While the health and safety of our residents are a top priority for local election officials, counties urge Congress to maintain local flexibility over elections or provide dedicated funding to assist counties with meeting new federal voting requirements as there are ongoing negotiations.
- **Funding for Critical Housing Programs:** Counties nationwide will be experiencing housing and economic challenges. Additional investments in federal programs like Community Development Block Grant and HOME Investment Partnerships programs, Homeless Assistance Grants, Economic Development Administration, Small Business Administration, USDA Rural Development and emergency housing rental and mortgage assistance will allow counties to best serve those in need. Funding these programs will provide direct funding to localities to help mitigate the local economic crisis for small businesses, build infrastructure and ensure residents can maintain their housing and prevent an increase in homelessness.
- **Return Solvency to the Highway Trust Fund (HTF).** In addition to funding highway programs, public transit agencies are also funded by revenues from the HTF, including the 78 percent of those that are directly supported by counties. Continued insolvency of the fund compounds the effects of declining ridership as a result of COVID-19, and threatens the ability of local governments to adequately support public transit systems that our residents rely on to access critical institutions, such as businesses, schools and hospitals.
- **Authorize and Appropriate funding for the Public Transportation Emergency Relief (PTER) Program (49 U.S.C. 5324):** The U.S. Department of Transportation (DOT) estimates that fares make up a third of the funds that local governments use to support public transit systems. As ridership declines, Congress should consider providing relief to local public transit agencies by

authorizing and appropriating funds for the PTER program. Congress should also consider directing the DOT Secretary to waive the local match for projects performed under 49 U.S.C. 5324.

- **Uncap the Passenger Facility Charge (PFC) and indexing it to inflation:** The drop in passenger traffic as a result of COVID-19 has resulted in a corresponding drop in the amount of PFCs collected at airports. Counties directly support 34 percent of public airports and utilize PFCs to fund projects that can increase competition and enhance the safety, security or capacity of local airports. Uncapping the PFC and indexing the fee to inflation will aid local airports in modernizing infrastructure, meeting current bond obligations and providing travelers with access to a safer and more efficient aviation system.
- **Allow Flexibility in Hiring:** We urge Congress to grant the authority to the Department of Labor to work with state and local governments to provide flexibility to hire back retirees who possess special skills to deal with the pandemic in a way that will not affect their benefits.
- **Fully Fund Programs that Support Local Airports:** Any legislation that addresses the effects of COVID-19 should mitigate impacts on already disadvantaged small and rural airports by fully funding the Airport Improvement Program (AIP) at \$3.35 billion; the Essential Air Service (EAS) Program at \$165 million; and the Small Community Air Service Development Program (SCASDP) at \$10 million, as authorized by P.L. 115-254. Counties also urge lawmakers to appropriate additional funds from the Treasury's general fund for these programs, as was the case for AIP in FY 2020 (\$400 million general fund transfer), as the air travel industry continues to face a decline. EAS and SCASDP provide critical support for local airports that often act as economic generators for entire regions, while AIP funds capital projects at county-supported airports both big and small.
- **Increase the Local Share of the Surface Transportation Block Grant Program (STBGP).** STBGP provides the most flexible federal funding source to counties and can be utilized to deliver critical infrastructure projects that may be delayed due to the necessity to reallocate funds to other measures to address more immediate consequences of COVID-19. This reallocation of funds is likely to result in a domino effect on local infrastructure that already faces a significant backlog. As owners and operators of 45 percent of public roads and 38 percent of the National Bridge Inventory, counties support increasing the amount of direct funding available to local governments through modifications to STBGP to facilitate the delivery of important transportation projects that support local economies, including the construction, improvement and maintenance of transit and rail infrastructure.

We respectfully urge that Congress take these concerns into consideration, and act quickly to pass legislation so that counties can effectively implement containment and community mitigation strategies that would assist us with preserving the health and safety of our residents and economic vitality of our communities.

States and local governments will face massive challenges in responding to, and as a result of, COVID-19. As representatives of the public servants on the front lines of battling this unprecedented pandemic, NACo is committed to working with both Congress and the administration to advance legislation that assists with the mitigation of this crisis and its widespread economic impact on our nation.

Sincerely,

A handwritten signature in blue ink that reads "Matthew Chase". The signature is fluid and cursive, with a large loop at the top of the first name.

Matthew Chase
Executive Director
National Association of Counties